

MONTANA PUBLIC DEFENDER COMMISSION
ELIGIBILITY AND COST RECOVERY COMMITTEE MEETING

Goodkind Building
139 North Last Chance Gulch, Helena, MT 59601

July 18, 2014

DRAFT MINUTES

Committee Members Present:

Fritz Gillespie, (Chair), Helena; Margaret Novak, Chester; Brian Gallik, Bozeman; Bonnie Olson, Marion

Agency Team Members Present

Bill Hooks, Chief Public Defender; Harry Freebourn, Administrative Director; Wade Zolynski, Chief Appellate Defender; Chris Thomas, Eligibility Coordinator

1. Call to Order

Committee Chair Fritz Gillespie called the meeting of the Eligibility and Cost Recovery Committee to order at 11:05 a.m.

2. Approval of Minutes of June 11, 2013 Meeting

Commissioner Gallik moved to approve the minutes as drafted. Chairman Gillespie seconded and the motion carried.

3. Update on Proposed Legislation

a. Amendments to eligibility determination process (47-1-111)

Several bill proposals related to the eligibility process were presented to the Law and Justice Interim Committee in June. The first one addresses the role of the regional deputy public defender (RDPD) in the eligibility determination process, which was an issue raised in the performance audit. OPD feels strongly that the RDPD must be involved; amending the statute will resolve the issue raised by the auditors. The proposed language still prohibits the RDPD from making determinations in their own cases to comply with the intent of the original legislation.

The next proposal amends Title 47 to include actual definitions of “household” and “gross household income” and remove the current reference to the definition in Title 15. There was discussion of whether there is a benefit to taking the definitions from Title 15 versus crafting our own, and whether family members have any obligation to pay for counsel for other adults, young or old. There is still time to modify the language if needed.

The final eligibility bill clarifies the court's role related to motions to rescind. There is a lack of uniformity in the courts, especially the courts of limited jurisdiction and this will identify the steps the court should take, depending on whether the client asks for a hearing.

The Committee supports all of these legislative proposals.

b. Cost recovery

Chairman Gillespie gave a brief overview of the issues that OPD is facing related to cost recovery. This bill proposal suspends payment of public defender fees during periods of incarceration. The administrative costs for OPD and the Department of Corrections are generally greater than the amount of the payments received, which are a percentage of an inmate's earnings. The Committee agreed that the change makes fiscal sense.

4. Old Business

Chief Hooks said that a number of steps have been undertaken to address the audit issues, and that we have substantially complied with all of the issues that the auditors identified. Commissioner Gallik and Chris Thomas collaborated on developing the new process.

a. Performance Audit Compliance

i. New application for services

The new application was piloted in Region 6 (Havre) and Region 8 (Bozeman) and now been launched statewide. It is improving efficiency and making the determination process faster.

ii. Improved hardship process

The new form and the associated training are creating more uniformity in making hardship determinations.

iii. Training

Face to face training was conducted at the support staff conference prior to launching the new form. A new policy has been developed as well as a detailed training manual. They are available on-line.

iv. RDPD involvement

The proposed legislation discussed above addresses this issue.

5. Public Comment

There were no members of the public in attendance.

6. Adjourn

The meeting adjourned at noon.